IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

THURSDAY, THE 8TH MARCH 2007 / 17TH PHALGUNA 1928

WP(C).No. 10286 of 2004(Y)

PETITIONER:

JINO KURIAKOSE, S/O. KURIAKOSE,
THACHAPPALLY HOUSE, NEDUVANNUR P.O.,
CHENGAMANAD VILLAGE, ALUVA TALUK.

BY ADV. SRI.K.MOHANDAS
SRI.A.MOHAMED MUSTAQUE

RESPONDENTS:
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1. **THE REVENUE DIVISIONAL OFFICER,**
   FORT KOCHI, ERNAKULAM DISTRICT.

2. **THE VILLAGE OFFICER,**
   CHENGAMANAD, ERNAKULAM DISTRICT.

3. **THE GEOLOGIST,**
   MINING & GEOLOGY DEPARTMENT, COLLECTORATE,
   ERNAKULAM.

BY GOVERNMENT PLEADER SRI.BENJAMIN PAUL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.10286/2004 Y

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE CONSENT DTD. 6/03/2004.**

EXT.P2: **COPY OF THE POSSESSION CERTIFICATE ISSUED BY THE 2ND RESPONDENT DTD. 5/02/204.**

EXT.P2(A): **COPY OF THE POSSESSION CERTIFICATE ISSUED BY THE 2ND RESPONDENT DTD. 5/02/04.**

EXT.P3: **COPY OF THE PERMIT ISSUED BYTHE 3RD RESPONDENT IN FAVOUR OF THE PETITIONER DTD. 10/03/04.**

EXT.P4: **COPY OF THE PROHIBITORY ORDER ISSUED BY THE 2ND RESPONDENT DTD. 16/03/04.**

/TRUE COPY/

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THOTTATHIL B. RADHAKRISHNAN, J.

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WP(C).No.10286 OF 2004-Y

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Dated this the 8th day of March, 2007.

JUDGMENT

The petitioner has a licence granted by the Mining and Geology Department through its Geologist for removal of clay. The petitioner himself had removed the clay to convert his available land into pond for fishing cultivation. In 2004, the impugned stop memo was issued by the Village Officer referring to some directions of the RDO by stating that the activity cannot be carried on without the sanction of the RDO. Once the Geologist has granted the permission and has issued the licence, I do not find any legal ground for the RDO to object to the activity unless, of course, he can point out to the writ petitioner any provision of law which would stand violated by such activity. No such provision is made out in the stop memo and no notice was served on the petitioner from the RDO's office. There is no

law requiring the petitioner to move the RDO for permission, when he has got the sanction of the Geologist. Under such circumstances, this writ petition is disposed of directing that the petitioner will be permitted to continue with the activity as sanctioned by the Geologist, subject to any power of the RDO to issue any notice on him showing any particular provision under which he could be desisted from proceeding with the activity. However, a final decision on such course shall also be taken only after affording the petitioner an opportunity of being heard.

THOTTATHIL B. RADHAKRISHNAN,
JUDGE.

Sha/-